

spect to the amount of the credit determined under this section.

"(g) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1996."

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b), as amended by section 8205, is amended—

(A) by striking "plus" at the end of paragraph (8),

(B) by striking the period at the end of paragraph (9), and inserting in lieu thereof a comma and "plus", and

(C) by adding at the end thereof the following new paragraph:

"(10) the employer on-site day-care facility credit determined under section 45."

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45A. Employer on-site day-care facility credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in section on and after the date of the enactment of this Act.

**SEC. 10. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF \$1,000,000.**

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—To the extent that the amount of employee remuneration for any covered employee exceeds \$1,000,000 for the taxable year, no deduction shall be allowed under this chapter for an amount equal to 25 percent of the amount of such excess.

"(2) COVERED EMPLOYEE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'covered employee' means any employee of the taxpayer who is an officer of the taxpayer.

"(B) EXCEPTION FOR EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.—The term 'covered employee' shall not include any employee-owner (as defined in section 269A(b)) of a personal service corporation (as defined in section 269A(b)).

"(C) FORMER EMPLOYEES.—The term 'covered employee' includes any former employee who had been a covered employee at any time while performing services for the taxpayer.

"(3) EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) REMUNERATION.—For purposes of subparagraph (A), the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof,

"(ii) amounts referred to in section 3121(a)(19), and

"(iii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under section 132.

"(4) TREATMENT OF CERTAIN EMPLOYERS.—

"(A) IN GENERAL.—All employers treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (n) of section 414 shall be treated as a single employer for purposes of this subsection.

"(B) CLARIFICATION OF OFFICER DEFINITION.—Any officer of any of the employers treated as a single employer under subparagraph (A) shall be treated as an officer of such single employer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

**BUMPERS (AND OTHERS)  
AMENDMENT NO. 3164**

Mr. BUMPERS (for himself, Mr. KASTEN, Mr. CRANSTON, Mr. NICKLES, and Mr. KOHL) proposed an amendment to the bill H.R. 11, supra, as follows:

On page 972, beginning with line 17, strike all through page 973, line 13, and insert:

Clause (ii) of section 6654(d)(1)(C) is amended by striking the last sentence.

**PRESSLER AMENDMENT NO. 3165**

(Ordered to lie on the table.)

Mr. PRESSLER submitted an amendment intended to be proposed by him to the bill H.R. 11, supra, as follows:

At the appropriate place, insert the following:

**TITLE —CAR THEFT PREVENTION  
AND DETERRENCE**

**SEC. 01. SHORT TITLE.**

This title may be cited as the "Car Theft Prevention and Deterrence Act".

**SEC. 02. PURPOSE.**

It is the purpose of this Act to take effective measures to thwart motor vehicle theft for transportation (including joyriding) and the use of stolen vehicles in the commission of a crime (including theft for profit, theft to defraud insurance companies, and carjacking).

**Subtitle A—Enhanced Penalties for Auto Theft**

**SEC. 11. FEDERAL PENALTIES FOR ARMED ROBBERIES OF AUTOS.**

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—

(1) IN GENERAL.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following new section:

**§ 2119. Motor vehicles**

"A person who, possessing a firearm (as defined in section 921), take a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from a person or in the presence of another person by force and violence or by intimidation, or attempts to do so—

"(1) shall be fined under this title, imprisoned not more than 15 years, or both; and

"(2) if serious bodily injury (as defined in section 1365) results, shall be fined under this title, imprisoned not more than 25 years, or both; and

"(3) if death results, shall be fined under this title, imprisoned for any number of years or for life, or both."

(2) TECHNICAL AMENDMENT.—The chapter analysis for chapter 103 of title 18, United States Code, is amended by adding at the end the following new item:

"2119. Motor vehicles."

(b) SENSE OF CONGRESS.—In view of the increase of motor vehicle theft with its growing threat to human life and to the economic well-being of the Nation, it is the sense of Congress that the Attorney General, acting through the Federal Bureau of Investigation

and the United States Attorneys, should work with State and local officials to investigate car thefts, including violations of section 2119 of title 18, United States Code, for armed carjacking, and, as appropriate and consistent with the proper exercise of prosecutorial discretion, prosecute persons who violate that section and other Federal laws relating to car theft.

**SEC. 12. IMPORTATION AND EXPORTATION.**

Section 563(a) of title 18, United States Code, is amended by striking "fined not more than \$15,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

**SEC. 13. TRAFFICKING IN STOLEN VEHICLES.**

Each of sections 2312 and 2313(a) of title 18, United States Code, is amended by striking "fined not more than \$5,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

**SEC. 14. CIVIL AND CRIMINAL FORFEITURE.**

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Any property, real or personal, that represents or is traceable to the gross proceeds obtained, directly or indirectly, from a violation of—

"(i) section 511 (altering or removing motor vehicle identification numbers);

"(ii) section 563 (importing or exporting stolen motor vehicles);

"(iii) section 2119 (armed robbery of automobiles);

"(iv) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(v) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce)."

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (4) the following new paragraph:

"(5) The court, in imposing sentence on a person convicted of a violation or conspiracy to violate—

"(A) section 511 (altering or removing motor vehicle identification numbers);

"(B) section 563 (importing or exporting stolen motor vehicles);

"(C) section 2119 (armed robbery of automobiles);

"(D) section 2132 (transporting stolen motor vehicles in interstate commerce); or

"(E) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce),

shall order that the person forfeit to the United States any property real or personal that represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of the violation."

**Subtitle B—Targeted Law Enforcement**

**SEC. 21. PURPOSE.**

The purpose of this subtitle is to supplement the Edward Byrne Memorial State and Local Law Enforcement Assistant Program under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 500 et seq.) to help the States to curb motor vehicle thefts and the related violence.

**SEC. 22. DEFINITIONS.**

In this subtitle:

"Anti Car Theft Committee" means an entity the resources of which are devoted entirely to the activities described in section 34(b)(4).

"Director" means the Director of the Bureau of Justice Assistance of the Department of Justice.

"State" has the meaning stated in section 901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791).  
**SEC. 32. GRANT AUTHORIZATION.**

The Director shall make grants to Anti Car Theft Committees that submit applications in compliance with the requirements of this chapter.

**SEC. 34. APPLICATION.**

(a) **SUBMISSION.**—To be eligible to receive a grant under this chapter, the chief executive of an Anti Car Theft Committee shall submit an application to the Director.

(b) **CONTENT.**—An application under subsection (a) shall include the following:

(1) A statement that the applicant is either a State agency or an agency of a unit of local government.

(2) A statement that the applicant is or will be financed in part by a tax or fee on motor vehicles registered by the State or possessed or insured within the State, and that such tax or fee is not less than \$1 per vehicle.

(3) An assurance that Federal funds received under a grant under this subtitle shall be used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under the grant.

(4) A statement that the resources of the applicant will be devoted entirely to combating motor vehicle theft, including any or all of the following:

(A) Financing law enforcement officers or investigators whose duties are entirely or primarily related to investigating cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(B) Financing prosecutors whose duties are entirely or primarily related to prosecuting cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(C) Motor vehicle theft prevention programs, including vehicle identification number etching programs, programs implemented by law enforcement agencies and designed to enable the electronic tracking of stolen automobiles, and programs designed to prevent the exportation of stolen vehicles.

(5) A description of the budget for the applicant for the fiscal year for which a grant is sought.

**SEC. 36. AWARD OF GRANTS.**

(a) **IN GENERAL.**—The Director shall allocate to each State a proportion of the funds available under this subtitle for a fiscal year that is equal to the proportion of the number of motor vehicles registered in the State to the number of motor vehicles registered in all of the States.

(b) **GRANT AMOUNTS.**—

(1) **SINGLE APPLICANT.**—Subject to subsection (c), if one Anti Car Theft Committee in a State submits an application in compliance with section 34, the Director shall award to that committee a grant equal to the amount of funds allocated to the State under subsection (a).

(2) **MULTIPLE APPLICANTS.**—(A) Subject to subsection (c), if 2 or more Anti Car Theft Committees in a State submit applications in compliance with section 34, the Director shall award to those committees grants that in sum are equal to the amount of funds allocated to the State under subsection (a).

(B) The Director shall allocate funds among 2 or more Anti Car Theft Committees in a State according to the proportion of the preaward budget of each Anti Car Theft Committee to the total preaward budget for all grant recipient committees in the State.

(c) **LIMITATION.**—In no case shall an Anti Car Theft Committee receive a grant in an amount that is greater than 50 percent of the amount budgeted for the committee prior to the making of the award.

(d) **RENEWAL OF GRANTS.**—Subject to the availability of funds, a grant under this subtitle may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives an initial grant under this subtitle if the Director determines that the funds made available to the recipient during the previous year were used in the manner required under the approved application.

**SEC. 38. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this subtitle \$10,000,000 for each of fiscal years 1993, 1994, and 1995.

Subtitle C—Report Regarding State Motor Vehicle Titling Programs To Combat Motor Vehicle Thefts and Fraud

**SEC. 41. TASK FORCE.**

(a) **ESTABLISHMENT.**—The Secretary of Transportation and the Attorney General, acting jointly, shall, as soon as practicable after the date of enactment of this Act but not later than 180 days after that date, establish a task force to study problems that relate to motor vehicle titling and controls over motor vehicle salvage that may affect the motor vehicle theft problem.

(b) **MEMBERSHIP.**—The task force shall consist of—

(1) the Secretary of Transportation or the Secretary's delegate;

(2) the Attorney General or the Attorney General's delegate;

(3) the Secretary of Commerce or the Secretary's delegate;

(4) the Secretary of the Treasury or the Secretary's delegate;

(5) at least 3 representatives to be designated by the Attorney General;

(6) at least 5 representatives of State motor vehicle departments to be designated by the Secretary of Transportation; and

(7) at least 1 representative of each of the following groups to be designated by the Secretary of Transportation:

(A) Motor vehicle manufacturers.

(B) Motor vehicle dealers and distributors.

(C) Motor vehicle dismantlers, recyclers, and salvage dealers.

(D) Motor vehicle repair and body shop operators.

(E) Motor vehicle scrap processors.

(F) Insurers of motor vehicles.

(G) State law enforcement officials.

(H) Local law enforcement officials.

(I) The American Association of Motor Vehicle Administrators.

(J) The National Automobile Theft Bureau.

(K) The National Committee on Traffic Laws and Ordinances.

(c) **REIMBURSEMENT.**—

(1) **SALARY.**—The members of the task force shall serve without pay.

(2) **TRAVEL EXPENSES.**—While away from their residences or regular places of business in performance of services for the Federal Government, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

(3) **CHAIR.**—The Secretary of Transportation or the Secretary's delegate shall serve as chair of the task force. The task force may also invite representatives of the Governors and State legislatures to participate.

(d) **STUDY REQUIREMENTS.**—The study required by subsection (a) shall—

(1) include an examination of the extent to which the absence of uniformity and integration in State laws regulating vehicle titling and registration and salvage of used vehicles allows enterprising criminals to find the weakest link to "wash" the stolen character of the vehicles; and

(2) consider the adoption of a title brand on all certificates of title indicating whether a vehicle—

(A) has previously been issued a title brand;

(B) has been rebuilt or reconstructed; or

(C) has been damaged by flood.

(e) **REPORT.**—

(1) **IN GENERAL.**—Not later than 1 year after the date on which the task force is established, the task force shall submit to the President, the Congress, and the chief executive officer of each State a report containing the results of the study required by subsection (a).

(2) **CONSULTATION AND REVIEW.**—The report described in paragraph (1) shall be made after consultation with interested persons and a review of laws, practices, studies, and recommendations regarding the matters described in subsection (d).

(3) **CONTENTS.**—The report described in paragraph (1) shall—

(A) specify the important aspects of motor vehicle antitheft measures necessary to prevent—

(i) the disposition or use of stolen motor vehicles or the major components of motor vehicles; and

(ii) the commission of insurance and other fraud based on false reports of stolen vehicles;

(B) identify antitheft measures for which national uniformity is crucial to the effectiveness of the measure;

(C) recommend ways of obtaining any national uniformity that is necessary; and

(D) include recommendations for legislative or administrative action at the State or Federal level and for action by industry and the public to deal with the problem of motor vehicle theft.

Mr. PRESSLER. Mr. President, in Washington, DC, officials recorded four car-jackings at gunpoint during the month of May 1992 alone. In 1990, 1.6 million cars were stolen throughout the Nation. At an estimated cost of \$8-\$9 billion, auto theft is the No. 1 crime against personal property. Auto theft is a lucrative, professional business and a great expense to our constituents. This epidemic of crime is not geographically isolated—we are all affected.

The sophisticated alarms, steering-wheel locks, and homing devices installed by desperate auto owners as thefts rise are prompting auto thieves to devise new criminal strategies. Car-jacking has become a viable alternative for the professional car thief. Today's criminal can just point a weapon and take a car, without the hassle of breaking the windows or popping the ignition.

The alarming rise in car-jackings and auto theft has prompted me to introduce a portion of my bill, S. 2613, the Anti-Car Theft Act of 1992 as an amendment to H.R. 11. This amendment subjects car-jackers to Federal penalties. Additionally, the bill authorizes the establishment of a task force to study problems relating to motor vehicle titling and controls over motor vehicle salvage which may affect the theft problem. My amendment does not include titles II, III, or IV of S. 2613 which refer to the labeling and marking of auto parts.

Mr. President, I ask unanimous consent that a copy of the amendment I intend to offer tomorrow, together with a letter to my colleagues and a fact sheet describing the amendment, be included in the RECORD immediately following my remarks. I urge all of my colleagues to join me in cosponsoring this important amendment.

**MCCAIN (AND INOUYE)  
AMENDMENT NO. 3166**

(Ordered to lie on the table.)

Mr. MCCAIN (for himself and Mr. INOUYE) submitted an amendment intended to be proposed by them to the bill H.R. 11, *supra*, as follows:

Strike section 1106 and all that follows through the end of title I, and insert the following:

**SEC. 1106. EFFECTIVE DATE.**

(a) **GENERAL RULE.**—The amendments made by this subtitle (other than the amendments made with respect to Indian reservation tax enterprise zones) shall take effect on the date of the enactment of this Act.

(b) **REQUIREMENT FOR RULES.**—Not later than the date 4 months after the date of the enactment of this Act, the appropriate Secretaries shall issue rules—

(1) establishing the procedures for nominating areas for designation as tax enterprise zones,

(2) establishing a method for comparing the factors listed in section 1392(d) of the Internal Revenue Code of 1986 (as added by this subtitle),

(3) establishing recordkeeping requirements necessary or appropriate to assist the studies required by subtitle B, and

(4) providing that State and local governments shall have at least 5 months after such rules are published to file applications for nominated areas before such applications are evaluated and compared and any area designated as a tax enterprise zone.

**Subtitle B—Study**

**SEC. 1111. STUDY OF EFFECTIVENESS OF TAX ENTERPRISE ZONE INCENTIVES.**

(a) **IN GENERAL.**—The Secretary of the Treasury, in consultation with the appropriate Secretary (as defined in section 1393(9), as added by subtitle A), shall contract within 3 months of the date of the enactment of this Act, with the National Academy of Sciences (hereafter in this section referred to as the "Academy") to conduct a study of the effectiveness of the incentives provided by subtitle A in achieving the purposes of such subtitle in tax enterprise zones.

(b) **CONDUCT OF STUDY.**—If the Academy contracts for the conduct of the study described in subsection (a), the Academy shall develop a study methodology and shall oversee and manage the conduct of such study.

(c) **REPORTS.**—The Academy shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(1) not later than July 1, 1997, an interim report setting forth the findings as a result of such study, and

(2) not later than July 1, 2000, a final report setting forth the findings as a result of such study.

(d) **FUNDING.**—There are authorized to be appropriated to carry out the study and reports described in this section, \$500,000 for fiscal year 1993, and such sums as are necessary for each succeeding fiscal year.

**Subtitle C—Indian Employment and Investment**

**SEC. 1121. INVESTMENT TAX CREDIT FOR PROPERTY ON INDIAN RESERVATIONS.**

(a) **ALLOWANCE OF INDIAN RESERVATION CREDIT.**—Section 46 (relating to investment credits) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ", and", and by adding after paragraph (3) the following new paragraph:

"(4) the Indian reservation credit."

(b) **AMOUNT OF INDIAN RESERVATION CREDIT.**—

(1) **IN GENERAL.**—Section 46 (relating to the energy credit and the reforestation credit) is amended by adding after subsection (b) the following new subsection:

"(c) **INDIAN RESERVATION CREDIT.**—

"(1) **IN GENERAL.**—For purposes of section 46, the Indian reservation credit for any taxable year is the Indian reservation percentage of the qualified investment in qualified Indian reservation property placed in service during such taxable year, determined in accordance with the following table:

"In the case of qualified Indian reservation property which is:

Reservation personal property .....	10
New reservation construction property.	15
Reservation infrastructure investment.	15.

"(2) **QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY DEFINED.**—For purposes of this subpart—

"(A) **IN GENERAL.**—The term 'qualified Indian reservation property' means property—

"(i) which is—

"(I) reservation personal property,  
"(II) new reservation construction property, or  
"(III) reservation infrastructure investment, and

"(ii) not acquired (directly or indirectly) by the taxpayer from a person who is related to the taxpayer (within the meaning of section 465(b)(3)(C)).

The term 'qualified Indian reservation property' does not include any property (or any portion thereof) placed in service for purposes of conducting or housing class I, II, or III gaming (as defined in section 4 of the Indian Regulatory Act (25 U.S.C. 2703).

"(B) **QUALIFIED INVESTMENT IN QUALIFIED INDIAN RESERVATION PROPERTY.**—The term 'qualified investment in qualified Indian reservation property' means—

"(1) in the case of reservation infrastructure investment, the amount expended by the taxpayer for the acquisition or construction of the reservation infrastructure investment; and

"(ii) in the case of all other qualified Indian reservation property, the taxpayer's basis for such property.

"(C) **RESERVATION PERSONAL PROPERTY.**—The term 'reservation personal property' means qualified personal property which is used by the taxpayer predominantly in the active conduct of a trade or business within an Indian reservation. Property shall not be treated as 'reservation personal property' if it is used or located outside the Indian reservation on any regular basis.

"(D) **QUALIFIED PERSONAL PROPERTY.**—The term 'qualified personal property' means property—

"(i) for which depreciation is allowable under section 168,

"(ii) which is not—

"(I) nonresidential real property,  
"(II) residential rental real property, or  
"(III) real property which is not described in (I) or (II) and which has a class life of more than 12.5 years.

"(E) **NEW RESERVATION CONSTRUCTION PROPERTY.**—The term 'new reservation construction property' means qualified real property—

"(i) which is located in an Indian reservation,

"(ii) which is used by the taxpayer within an Indian reservation predominantly in the active conduct of a trade or business, and

"(iii) which is originally placed in service by the taxpayer.

"(F) **QUALIFIED REAL PROPERTY.**—The term 'qualified real property' means property described in clause (I), (II), or (III) of subparagraph (D)(1).

"(G) **RESERVATION INFRASTRUCTURE INVESTMENT DEFINED.**—

"(1) **IN GENERAL.**—The term 'reservation infrastructure investment' means qualified personal property or qualified real property which—

"(I) benefits the tribal infrastructure,

"(II) is available to the general public, and

"(III) is placed in service in connection with the taxpayer's active conduct of a trade or business within an Indian reservation.

"(2) **PROPERTY MAY BE LOCATED OUTSIDE**

**THE RESERVATION.**—Qualified personal property and qualified real property outside an Indian reservation shall be reservation infrastructure investment only if its purpose is to connect to existing tribal infrastructure in the reservation, and shall include, but not be limited to, roads, power lines, water systems, railroad spurs, and communications facilities.

"(3) **REAL ESTATE RENTALS.**—For purposes of this section, ownership (or leaseholding) of residential, commercial, or industrial real property within an Indian reservation for rental shall be treated as the active conduct of a trade or business in an Indian reservation.

"(4) **INDIAN RESERVATION DEFINED.**—For purposes of this subpart, the term 'Indian reservation' means a reservation, as defined in—

"(A) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or

"(B) section 4(j) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(j)).

"(5) **LIMITATION BASED ON UNEMPLOYMENT.**

"(A) **GENERAL RULE.**—The Indian reservation credit allowed under section 46 for any taxable year shall equal—

"(i) if the Indian unemployment rate on the applicable Indian reservation for which the credit is sought exceeds 300 percent of the national average unemployment rate at any time during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years, 100 percent of such credit,

"(ii) if such Indian unemployment rate exceeds 150 percent but not 300 percent, 50 percent of such credit, and

"(iii) if such Indian unemployment rate does not exceed 150 percent, 0 percent of such credit.

"(B) **SPECIAL RULE FOR LARGE PROJECTS.**

In the case of a qualified Indian reservation property which has (or is a component of a project which has) a projected construction period of more than 2 years or a cost of more than \$1,000,000, subparagraph (A) shall apply by substituting "during the earlier of the calendar year in which the taxpayer enters into a binding agreement to make a qualified investment or the first calendar year in which the taxpayer has expended at least 10 percent of the taxpayer's qualified investment, or the preceding calendar year" for "during the calendar year in which the property is placed in service or during the immediately preceding 2 calendar years".

"(C) **DETERMINATION OF INDIAN UNEMPLOYMENT.**—For purposes of this paragraph, with respect to any Indian reservation, the Indian